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Attorneys for Defendant
DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
TRUSTEE FOR MORGAN STANLEY LOAN TRUST 2006-HE4

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

CODY NICHOLS, an individual,

Plaintiffs,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee For Morgan Stanley Loan Trust 2006-HE4, an entity of unknown form; DECISION ONE MORTGAGE COMPANY, LLC, a North Carolina Limited Liability Company; and DOES 10-10, inclusive

Defendants.

**CASE NO.: 07CV2039-L (NLS)**

**DEFENDANT DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR MORGAN STANLEY LOAN TRUST 2006-HE4'S UNOPPOSED EX PARTE APPLICATION FOR AN ORDER EXCUSING THE PERSONAL APPEARANCE REQUIREMENT AT THE EARLY NEUTRAL EVALUATION CONFERENCE; DECLARATION OF S. CHRISTOPHER YOO IN SUPPORT THEREOF**

**DATE:** January 9, 2008
**TIME:** 9:30 a.m.
**CTRM:** 1118

**ACTION FILED:** October 19, 2007

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**MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

Defendant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Loan Trust 2006-HE4 ("Deutsche Bank") applies *ex parte* for an order excusing it from the requirement for personal appearance at the Early Neutral Evaluation Conference (the "ENE Conference"). Appropriate corporate representatives with settlement authority for Deutsche Bank are all located in Frederick, Maryland. If relief is granted, Deutsche Bank's counsel will personally appear at the ENE Conference, and its authorized corporate representative will be available by telephone to meaningfully participate in settlement discussions.

## II. STATEMENT OF FACTS

On December 19, 2007, counsel for Deutsche Bank received notice that the ENE Conference was scheduled for January 9, 2008. Pursuant to Local Rule, the parties or their representatives must personally appear at the ENE Conference. (Declaration of S. Christopher Yoo ("Yoo Decl.") ¶ 2.) Appropriate decision-makers for Deutsche Bank are all located at Frederick, Maryland. There are no employees with the settlement authority that reside in California. Compliance with the personal appearance requirement entails airline travel, hotel accommodations, disruption of normal business and attendant expense. (Yoo Decl. ¶ 3.)

The complaint seeks rescission of a home mortgage loan that has been assigned by Decision One Mortgage Company to Deutsche Bank. On these facts, meaningful settlement negotiations by Deutsche Bank can be accomplished telephonically. Deutsche Bank's decision-maker will be available to participate in the proceedings telephonically, and its counsel will personally attend. (Yoo Decl. ¶ 4.)

## III. GOOD CAUSE EXISTS TO PERMIT DEUTSCHE BANK'S REPRESENTATIVE TO APPEAR TELEPHONICALLY AT THE ENE CONFERENCE

Permitting Deutsche Bank's representative to participate in the ENE Conference by telephone is appropriate under the circumstances. The requested relief will not meaningfully affect settlement of this action. On the other hand, personal appearance is expensive and will not materially improve the likelihood of informal resolution. On this record, Deutsche Bank respectfully submits that good cause exists to excuse Deutsche Bank from the personal appearance requirement at the ENE Conference.

## IV. CONCLUSION

For the foregoing reasons, Deutsche Bank respectfully requests that this Court grant this application by issuing an Order permitting the representative to appear telephonically.

DATED: December 28, 2007

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

By: /s/ S. Christopher Yoo
S. CHRISTOPHER YOO
Attorneys for Defendant
DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR MORGAN STANLEY LOAN TRUST 2006-HE4

**DECLARATION OF S. CHRISTOPHER YOO**

I, S. CHRISTOPHER YOO, declare as follows:

1. I am a member law firm of Adorno, Yoss, Alvarado & Smith, a Professional Corporation, attorneys of record for defendant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Loan Trust 2006-HE4 ("Deutsche Bank"). I have been duly admitted to practice law in the State of California.

2. On December 19, 2007, I received notice that the ENE Conference was scheduled for January 9, 2008. On December 19, 2007, Deborah Raymond, Esq., counsel for plaintiff Cody Nichols ("Plaintiff"), emailed me a copy of the Notice and Order Setting ENE Conference.

3. Appropriate decision-makers for Deutsche Bank are all located at Frederick, Maryland. There are no employees with the settlement authority that reside in California. Compliance with the personal appearance requirement entails airline travel, hotel accommodations, disruption of normal business and attendant expense.

4. The complaint seeks rescission of a home mortgage loan that has been assigned by Decision One Mortgage Company to Deutsche Bank. On these facts, meaningful settlement negotiations by Deutsche Bank can be accomplished telephonically. Deutsche Bank's decision-maker will be available to participate in the proceedings telephonically, and I will personally attend.

5. On December 28, 2007, I telephoned Deborah Raymond, Esq., counsel for Plaintiff, to give ex parte notice of this application. Ms. Raymond stated that she does not oppose this application.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of December 2007 at Santa Ana, California.

/s/ S. Christopher Yoo
S. CHRISTOPHER YOO